



June 3, 2024

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Sent via U.S. Mail and Electronic Mail (SDrown@conet.ucla.edu)

Dear Mr. Drown:

FIRE appreciates your April 26 response to our April 10 letter concerning Professor Dov Waxman's decision to move a lecture by former Israeli official Tzipi Livni from an in-person speech at Royce Hall to Zoom, and the additional information the response provided regarding the circumstances and considerations that led to that decision. Unfortunately, that information does not alleviate our concerns that the decision was made not only in haste, but without proper consideration of UCLA's constitutional obligations or of the incentives its action creates for others to pursue similarly disruptive behavior.

Contrary to your contention, moving in-person events to a virtual format based on threatened disruption *does* represent acquiescence to a "heckler's veto." Officials ratify a heckler's veto whenever they burden or restrict a planned expressive event to prevent threatened disruption by critics.¹ While full cancellation of an event obviously impairs First Amendment rights most severely, other similar viewpoint- or content-based restrictions—such as assessing large security fees on those hosting controversial speakers,² or preventing a student from distributing anti-war literature because some react violently to his presence³—also unlawfully restrain free expression.

¹ See *Rosenbaum v. City & Cnty. of San Francisco*, 484 F.3d 1142, 1158 (2007) ("A 'heckler's veto' is an impermissible content-based speech restriction where the speaker is silenced due to an anticipated disorderly or violent reaction of the audience.") (citing *Brown v. Louisiana*, 383 U.S. 131, 133 n.1 (1966)); Eugene Volokh, 'Heckler's Veto': Two Related Meanings, REASON MAG.: THE VOLOKH CONSPIRACY (Mar. 25, 2022 1:18 PM), <https://reason.com/volokh/2022/03/25/hecklers-veto-two-related-meanings/>; Zach Greenberg, *Rejecting the 'heckler's veto'*, FIRE (June 14, 2017), <https://www.thefire.org/news/rejecting-hecklers-veto>.

² *Forsyth Cnty. v. Nationalist Movement*, 505 U.S. 123, 134 (1992); see also Alex Morey, *Milo Yiannopoulos Tour Highlights Dangers of Security Fee Censorship*, FIRE (Sept. 27, 2016), <https://www.thefire.org/news/milo-yiannopoulos-tour-highlights-dangers-security-fee-censorship>.

³ *Jones v. Bd. of Regents of the Univ. of Ariz.*, 436 F.2d 618, 621 (9th Cir. 1970).

“Moving” Livni’s lecture from in-person to online because of threatened disruption is precisely such a content-based restriction: a limitation on how Livni and her hosts may communicate their messages, based solely on reactions of their critics. While online fora may have some advantages in-person events lack, the latter obviously have significant benefits Zoom cannot replicate. But even more importantly, event hosts have the right to consider these respective pros and cons as they make venue and format decisions—and UCLA consequently may not constitutionally allow protesters to dictate those choices for the hosts.

There may be cases, to be sure, when a university cannot address a credible threat of violence with increased security, necessitating cancellation of an in-person event in favor of meeting virtually. But Zoom’s availability is not an escape hatch for UCLA to sidestep its constitutional obligation to provide adequate security when hosts opt for in-person events. Rather, it must make “bona fide efforts” to protect speakers’ expressive rights by “less restrictive means” than cancellation.⁴ In this instance, that means UCLA was obligated to provide security sufficient to prevent or swiftly halt any disruptions from the planned protest so the in-person lecture could proceed as planned.⁵

We again urge the Nazarian Center to hold UCLA to its constitutional duty to secure future in-person events rather than allowing critics to dictate what speech others may hear on campus. FIRE policy experts would be happy to work with UCLA administrators—free of charge, of course, in accord with FIRE’s charitable mission—to develop a policy to protect speakers’ and protesters’ First Amendment rights while securing events threatened with disruption. We request a substantive response to this letter no later than June 17.

Sincerely,



Jessie Appleby
Program Officer, Campus Rights Advocacy

Cc: Professor Dov Waxman, Director, Younes & Soraya Nazarian Center for Israel Studies

⁴ *Bible Believers v. Wayne Cnty.*, 805 F.3d 228, 255 (6th Cir. 2018).

⁵ *Jones*, 436 F.2d at 621 (“[T]he action of the police ... should have been exerted so as to prevent the infringement of Jones’ constitutional right by those bent on stifling, even by violence, the peaceful expression of ideas or views with which they disagreed.”).